

CITY OF OAKLAND



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Office of the City Attorney
John A. Russo
City Attorney

June 13, 2008

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VIA ELECTRONIC MAIL

Michael David Liberty, Esq.
Law Offices of Michael D. Liberty
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Burlingame, CA 94010
Attorney for Plaintiff

Michel C. Serverian, Esq.
Rankin Landsness Lahde
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Suite 500, 96 No. Third Street
San Jose, CA 95112
Attorney for Defendant

John L. Flegel, Esq.
Jorgenson, Siegel McClure & Flegel, LLP
1100 Alma Street, Suite 210
Menlo Park, CA 94025
Attorney for Defendant

Re: Guerrero v. County of San Benito et al.
United States District Court Case No. C08-00307 PVT ENE

Dear Counsel:

This will confirm that we have scheduled the ENE session in this case for **July 2, 2008 at One City Hall Plaza, 6th Floor, Oakland, beginning at 9:30 a.m.** As we discussed, the session may extend to late afternoon. If we are unable to conclude the session in one day and if we are making substantial progress towards achieving the ENE objectives, at your request, I am happy to conduct a further session later this summer.

Please make sure that the written statements described in ADR L.R. 5-9 are exchanged and in my office no later than 10 days prior to the session. Although I expect to learn much factual information from the documents that you will provide, I ask that

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your statements provide the focused detail necessary for me to understand, as fully as I can, what happened and what are the legal issues that you believe arose from what I assume are many discrete facts that comprise the incident giving rise to this lawsuit. I believe that the more focused the written statements are regarding the facts and legal issues in the case, the better prepared we all will be and the more meaningful our ENE session will be.

Please include, but by no means limit your written discussion or analysis, the following issues:

- The application, if any, of qualified immunity to this matter.
- A brief analysis of the merits of the Monell claims.
- A brief analysis of damages exposure under state law and under federal law.

If you have information that you want me to treat as confidential, please include it in a separate letter marked private and confidential.

As we discussed, Mr. Serverian will provide by June 20 a binder containing the documents that we agreed would be useful to the session and I asked Mr. Liberty to produce any additional documents that tend to support his claims, particularly damages and the Monell claims. All documents and statements must be exchanged no later than ten days before the session.

Please arrange for your clients' attendance as discussed.

I ask each of you to prepare for the session by discussing each of the following items with your client(s):

- the strengths and weaknesses of your case
- the probable outcome if the case proceeds to trial
- your plans for discovery and motions
- your client's goals, needs and priorities
- your client's best and worst alternatives to a negotiated settlement
- the resource allocation to this litigation, including, but not limited to, your estimated budget to litigate this case through trial
- the cost/benefit analysis of proceeding in litigation

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- if applicable, exit strategies from this litigation
- the emotional impact of this litigation on the parties

As we discussed, I will donate my preparation time and all time that I devote to this matter free of charge.

I look forward to working with you and your clients.

Very truly yours,

JOHN A. RUSSO
City Attorney

By: _____
RANDOLPH W. HALL
Chief Assistant City Attorney

RWH/ssl

Doc. No. 454186

cc: Alice M. Fiel - ADR Case Administrator

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Alice M. File
ADR Case Administrator
ADR Program
United States District Court
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